

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

Jefferson-Pilot Life Ins. Co.,

Plaintiff,

v.

Case No. 1:02cv479

Christopher L Kearney,

Judge Michael R. Barrett

Defendant.

**ORDER**

This matter is before the Court following the Court's *in camera* review of documents submitted by Plaintiff Jefferson-Pilot Life Insurance Company ("Jefferson-Pilot"). (Doc. 137) These documents include a privilege log and documents listed in the privilege log previously reviewed *in camera* by the Magistrate Judge previously assigned to this matter. The Magistrate Judge concluded that Ohio law was applicable to the issue of attorney-client privilege, and relied on the Ohio Supreme Court's decision in *Boone v. Vanliner Ins. Co.*, 744 N.E.2d 154 (Ohio 2001). Specifically, the Magistrate Judge determined that under *Vanliner*, attorney-client communications were protected from disclosure after June 6, 2002, which was the date that Jefferson-Pilot stopped payments relative to the disputed categories in this case. (See Doc. 76) The Magistrate Judge reviewed the documents and determined that they were properly categorized as privileged. (See Doc. 83) The Magistrate Judge also found no evidence supporting a bad faith claim in any of the documents. (Id.)

After reviewing the documents and the applicable caselaw, the Court reaches the

same legal conclusions as the Magistrate Judge. Therefore, the documents listed in the privilege log are privileged and not discoverable.

Counsel for Defendant stated that he was already in possession of the Jefferson-Pilot and DMS 1999 Administrative Services Agreement and Amendment ("the Agreement"). With regard to that document, the Court hereby **ORDERS** that Defendant's counsel return all copies of the Agreement in his possession, as well as all copies he has released to his client or any other person or entity, to counsel for Plaintiff. A new copy will be furnished to Defendant's counsel which will be marked as "Confidential" within **ten (10) days** of Defendant's counsel's return of his copy or copies to Plaintiff's counsel. The Parties shall work cooperatively together to reach an agreement regarding the confidentiality of these documents. The Parties shall tender an agreed order setting forth the terms of this agreement to the Court within **thirty (30) days** of entry of this Order.

Regarding the remaining documents, the correspondence from the Pennsylvania Department of Insurance and the Employer's Reinsurance Company's Reinsurance Agreement with Jefferson-Pilot, the Court finds that these documents are not relevant and would not lead to discoverable material.

**IT IS SO ORDERED.**

/s/ Michael R. Barrett  
Michael R. Barrett, Judge  
United States District Court